Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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Federal Communications Commission
Office of Secretary

In the Matters of	)	
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Implementation of the Telecommunications Act of 1996;	)	CC Docket No. 96-193
	)	
Reform of Filing Requirements and Carrier Classifications; and	)	DOCKET FILE COPY ORIGINAL
	)	
Anchorage Telephone Utility, Petition for withdrawal of Cost Allocation Manual	)	AAD-95-91

REPLY COMMENTS OF ANCHORAGE TELEPHONE UTILITY

This proceeding presents the Commission with the opportunity to effectuate true and meaningful reform of its carrier reporting requirements. Section 10(a) of the Communications Act, as amended by Telecommunications Act of 1996, mandates that the Commission forbear from applying any unnecessary regulation. A balancing of the burdens and benefits of the Commission's ARMIS and CAM requirements shows that only local exchange carriers ("LECs") with more than two percent of the nation's access lines should have to comply with these requirements. The public interest is not served by requiring LECs with less than two percent of nation's access lines to comply with detailed ARMIS reporting requirements and CAM filings and audits.[1/] By adopting a reporting threshold based on access lines, all smaller LECs -- both incumbents and new entrants -- will be exempt from regulatory burdens that will inhibit their ability to compete.

1/ Indeed, not a single entity filed comments endorsing the Commission's proposed threshold level.

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I. Adverse Effects From ARMIS and CAM Requirements

As recognized by this Commission, the central purpose of the Telecommunications Act of 1996 was "to provide for a pro-competitive, de-regulatory national policy."[2] Despite its repeated endorsements of this policy, the Commission has in this proceeding proposed -- without any explanation or justification -- to perpetuate (and indeed expand) burdensome reporting requirements that will hinder the ability of smaller LECs to compete. Contrary to the express mandate of the 1996 Act, the Commission is proposing to perpetuate existing regulatory requirements without thoroughly considering their necessity or impact.[3]

By the Commission's own estimates, completing the ARMIS reports will require over 2300 hours per year. Commission staff has advised ATU that these estimates will likely substantially understate the time that will be required to complete each report for the first time. Based on this advice and discussions with other telephone companies that file ARMIS reports, ATU estimates that, compared with an experienced LEC, it will likely take ATU at least twice as long, and perhaps as much as three times as long, to complete the forms for the first time. Thus, for the first year, ATU estimates that it will have to devote over 5000 hours to complete the ARMIS reports. This would require ATU to hire at least 3 full time employees to do nothing else but fulfill ARMIS

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[2] See S. Conf. Rep. No. 104-230, 104th Cong., 2d Sess. 1 (1996); see, e.g., Notice of Proposed Rulemaking, Implementation of the Telecommunications Act of 1996: Reform of Filing Requirements and Carrier Classifications ("Notice") at para. 1 (1996).

[3] As discussed in ATU's initial comments, the revenue threshold incorporated in the Commission's existing ARMIS and CAM rules has never been justified. See ATU Comments at 7-8.

reporting requirements, resulting in additional personnel costs of $250,000 - $350,000 for the first year alone. This still may be a gross underestimate, as Bell Atlantic reports that it takes more than three times as long as the Commission's estimate to prepare the 43-08 ARMIS report, for example.

The costs of complying with the Commission's cost allocation manual ("CAM") requirements are equally burdensome. ATU has already expended substantial resources to complete its CAM, will have to expend additional resources to complete the revisions mandated by the Commission.[4/] The required audit will at a minimum cost an additional $125,000. Saddling non-Tier 1 LECs with these requirements will increase their costs of doing business -- by over a half a million dollars -- and adversely affect their ability to compete.[5/] The Commission's proposal to do so is thus fundamentally inconsistent with the 1996 Act.

The Commission has also failed to provide any explanation or justification as to the necessity or public interest benefits of requiring non-Tier 1 LECs to file ARMIS reports and CAMs. When the Commission previously considered the matter, it concluded that the burdens of completing these reports outweighed any benefits of requiring them from non-Tier 1 carriers -- that is, LECs whose annual revenues from regulated

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[4/] ATU first began developing its CAM in 1990 and has made major revisions to comply with RAO Letter 19 and CAM uniformity. ATU estimates that it has spent between $100,000 - $200,000 in developing its CAM.

[5/] ATU exceeded the reporting threshold for 1995 by less than $900,000, and will have to spend close to this amount to comply with these requirements.

operations do not exceed $100 million for five consecutive years.[6] The Commission has not -- and cannot -- justify reversing this conclusion. Non-Tier 1 companies account for an extremely small fraction of telephone operating revenue nationwide. Data from these companies will not meaningfully add to the Commission's "ability to monitor industry developments and quantify the effects of regulatory proposals." Notice, para. 32.

There cannot be a critical need for ARMIS and CAM information from carriers on the cusp of the Commission's reporting threshold. With increased competition, operating revenues -- from non-regulated and even regulated businesses -- will likely decline. Thus, these carriers may very well find themselves preparing ARMIS and CAM filings some years and not reporting or auditing other years. In the wake of such fluctuating reporting requirements, the Commission simply cannot make a viable claim that information from such carriers is necessary.

The 1996 Act recognized the potential need for regulatory relief to enable smaller, incumbent LECs to achieve full competition. Under Section 251(f) of the Act, incumbent LECs with less than two percent of access lines may petition for suspension or modification of the expanded interconnection, unbundling and other statutory requirements. The two percent threshold provides a reasonable benchmark for determining whether an incumbent is "small."

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[6] Report and Order, Automated Reporting Requirements for Certain Class A and Tier 1 Telephone Companies, 2 FCC Rcd 5770, 5772-73 (1987) ("ARMIS Order"); Report and Order, Policy and Rules Concerning Rates for Dominant Carriers, 5 FCC Rcd 6786, 6833 (1990); Report and Order, Separation of Costs of Regulated Telephone Service from Costs of Nonregulated Activities, 2 FCC Rcd 1298, 1304 (1987).

The Commission should strike the same balance as Congress struck in the 1996 Act. To the extent that the Commission continues to require ARMIS reports and CAM filings and audits, they should only be required for LECs with more than two percent of the nation's access lines. This would provide the Commission information on LECs serving the vast majority of access lines and would place the burden of preparing these reports and filings on those companies most able to bear it.

II. Applicability of ARMIS and CAM Requirements To LECs

As discussed in ATU's initial comments, the Commission's explanation of its proposed ARMIS and CAM rules focuses solely on "incumbent" local exchange carriers and is silent on any need for ARMIS and CAM information from other local exchange carriers. Yet, the proposed rules are not so limited. Proposed Section 64.903 would require all LECs -- incumbent as well as new -- that exceed the revenue threshold to file CAMs and conduct full CAM audits. Similarly, proposed Section 43.21 would require all LECs -- incumbent as well as new -- that exceed that revenue threshold to file at least some ARMIS reports.

Teleport Communications Group ("TCG") proposes that the Commission simply "clarify" that ARMIS and CAM requirements do not apply to competing local exchange carriers. This, however, is not an acceptable solution. Requiring only incumbents to file ARMIS reports and CAMs would impose on them significant regulatory burdens that their competitors would not have to bear. Further, TCG's approach would adversely affect competition by providing competing LECs with valuable business information about incumbents, but would deprive the incumbents of the same valuable information about their competitors. As ATU discussed in its initial comments, these inequities could severely impede the ability of smaller LECs to compete.

The Commission apparently believes that a particular revenue threshold is relevant for determining those LECs whose "financial and operating data [the Commission needs] to administer [its] accounting, cost allocation, jurisdictional and access charge rules, and to preserve [its] ability to monitor industry developments and quantify the effects of regulatory proposals." Notice, para. 32. If this is so, then such information should be relevant regardless of whether the LEC is an incumbent or a new entrant.

The unfairness of TCG's proposed "clarification" is illustrated in the Anchorage market. Currently, ATU provides local exchange and access services with 1995 annual operating revenues of about $107,900,000, and ATU's affiliate, ATU-LD, has also just been authorized (but has not begun) to provide intrastate interexchange services. Two interexchange carriers serve the market, and both are seeking to provide local exchange services as encouraged by the 1996 Act. One of these carriers is AT&T Alascom, a subsidiary of AT&T, whose size and market power are well known. Less familiar may be the size and market power of the other carrier, General Communication Inc. ("GCI"). GCI reported $129,279,000 in operating revenues in 1995[7/] and has won the auction for one of the PCS licenses in the Alaska MTA.[8/] GCI is also finalizing the purchase of the monopoly cable television franchises in Anchorage and the major

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7/ Moody's Company Report Data on GCI.

8/ Public Notice, 10 FCC Rcd 13279 (March 22, 1995).

population centers in Alaska, which reach 74 percent of Alaska's households.[9] If any LEC will be capable of cross-subsidizing and otherwise will need monitoring, it is GCI. To exempt GCI from ARMIS and CAM requirements, while subjecting much smaller and less diverse ATU to those same requirements, obviously would be unfair and counter productive.[10]

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ATU's proposed ARMIS and CAM filing and auditing threshold of two percent of the nationwide access lines provides a de-regulatory, pro-competitive solution. The Commission would continue to obtain ARMIS and CAM information from LECs serving the vast majority of access lines, encompassing urban, suburban and rural areas. Yet smaller LECs -- both incumbents and new entrants -- would not be saddled with

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[9] Bruce Melzer, GCI Takes Control of State Cable TV, Anchorage Daily News, March 18, 1996 at A-1. On September 23, 1996, the Alaska Public Utilities Commission approved the transfer of the cable television franchises to GCI. See Order Approving Transfer Upon Closing, Subject to Conditions and Requiring Filing, U-96-43 (Sept. 23, 1996).

[10] There is also no reason to exempt TCG from the Commission's proposed rules. TCG's operating revenues for 1995 were $166,169,000, and it is affiliated with monopoly cable television providers TCI Communications, Inc. and Cox Communications, Inc. See Moody's Company Data Report.

regulatory burdens that would offer little public interest benefits, and at best would inhibit their ability to adapt and compete in the new telecommunications environment.

Respectfully submitted,

MUNICIPALITY OF ANCHORAGE
d/b/a
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